

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 95-067-1]

#### Receipt of Petition for Determination of Nonregulated Status for Genetically Engineered Corn

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has received a petition from the Northrup King Company seeking a determination of nonregulated status for a corn line designated as Bt11 that has been genetically engineered for insect resistance. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this corn line presents a plant pest risk.

**DATES:** Written comments must be received on or before November 6, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 95-067-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 95-067-1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690-2817.

**FOR FURTHER INFORMATION CONTACT:** Dr. Subhash Gupta, Biotechnologist, Biotechnology Permits, BBEP, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737-1237; (301) 734-7612. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734-7612.

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On July 14, 1995, APHIS received a petition (APHIS Petition No. 95-195-01p) from the Northrup King Company (Northrup King) of Golden Valley, MN, requesting a determination of nonregulated status under 7 CFR part 340 for an insect resistant corn line designated as Bt11. The Northrup King petition states that the subject corn line should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, corn line Bt11 has been genetically engineered to contain the *cryIA(b)* gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk), which expresses a delta-endotoxin insecticidal protein known to be effective against certain lepidopteran insects, including European corn borer. Corn line Bt11 also contains the *pat* gene isolated from *Streptomyces viridochromogenes* that encodes a phosphinothricin-N-acetyl transferase (PAT) enzyme. When introduced into a plant cell, the PAT enzyme inactivates

the herbicide glufosinate and is used in corn line Bt11 as a selective marker. Expression of the introduced genes is controlled by the 35S promoter derived from the plant pathogen cauliflower mosaic virus and a NOS terminator derived from the nopaline synthase gene of *Agrobacterium tumefaciens*.

Corn line Bt11 is currently considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogenic sources. The subject corn line has been evaluated in field trials conducted since 1992 under permits or notifications issued by APHIS, and since 1993, field trials have also been conducted under an experimental use permit issued by the Environmental Protection Agency (EPA). In the process of reviewing the applications for field trials of the subject corn, APHIS determined that the vectors and other elements were disarmed and that the trials would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), "plant pest" is defined as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants." APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

This genetically engineered corn line is also currently subject to regulation by other agencies. The EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including insecticides, be registered prior to distribution or sale, unless exempt by EPA regulation.

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301 *et seq.*), pesticides added to raw agricultural commodities generally are

considered to be unsafe unless a tolerance or exemption from tolerance has been established. Foods containing unsafe pesticides are deemed to be adulterated. Residue tolerances for pesticides are established by EPA under the FFDCA; the Food and Drug Administration (FDA) enforces the tolerances set by EPA.

The FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984-23005). The FDA statement of policy includes a discussion of the FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Northrup King's corn line Bt11 and the availability of APHIS' written decision.

**Authority:** 7 U.S.C. 150aa-150jj, 151-167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 30th day of August 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-22129 Filed 9-6-95; 8:45 am]

BILLING CODE 3410-34-P

## Grain Inspection, Packers and Stockyards Administration

### Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United

States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

AL-188—Centre Livestock Market, Inc. Centre, Alabama

GA-215—Calhoun Stockyard Highway 53, Inc. Calhoun, Georgia

MS-168—S & S Sales Mantachie, Mississippi

OR-126—Mike's Livestock Auction Eagle Point, Oregon

SC-152—L & H Auction Seneca, South Carolina

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408—South Building, U.S. Department of Agriculture, Washington, DC 20250 by September 14, 1995. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC, this 30th day of August 1995.

**Daniel L. Van Ackeren,**

*Director, Livestock Marketing Division.*

[FR Doc. 95-22111 Filed 9-6-95; 8:45 am]

BILLING CODE 3410-KD-P

### Posting of Stockyards

Pursuant to the authority provided under Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below are stockyards as defined by Section 302(a). Notice was given to the stockyard owners and to the public as required by Section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards are subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

| Facility No., name, and location of stockyard                            | Date of posting |
|--|-----------------|
| IL-174 Reel Livestock Center, Inc., Congerville, Illinois.               | July 13, 1995.  |
| MI-149 Rosebush Sale Barn, Rosebush, Michigan.                           | July 27, 1995.  |
| MS-167 Sebastopol Livestock Association, Inc., Sebastopol, Mississippi.. | July 13, 1995.  |
| NC-168 Lyman Livestock, Chinguapin, North Carolina..                     | August 5, 1995. |
| OK-211 Prague Livestock Auction LLC, Prague, Oklahoma..                  | August 4, 1995. |
| PA-157 Smoketown Quality Dairy Sales Co., Lancaster, Pennsylvania..      | July 6, 1995.   |

Done at Washington, DC, this 30th day of August 1995.

**Daniel L. Van Ackeren,**

*Director, Livestock Marketing Division, Packers and Stockyards Programs.*

[FR Doc. 95-22122 Filed 9-6-95; 8:45 am]

BILLING CODE 3410-KD-P

## COMMISSION ON CIVIL RIGHTS

### Membership of the USCCR Performance Review Board

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of membership of the USCCR Performance Review Board.

**SUMMARY:** This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 1995 rating year.

#### FOR FURTHER INFORMATION CONTACT:

Mr. George Harbison, Personnel Division, U.S. Commission on Civil Rights, 624 Ninth Street, NW., Washington DC 20425, (202) 376-8356.

#### Members

—Annie Blackwell, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor;